

RESOLUTION

CASE NO. SUP-1-02. VOICESTREAM WIRELESS EXTENSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, Ms. Ambre Blatter has applied on behalf of Jonathan C. Kinney, Trustee, for a special use permit to extend an existing 190-foot telecommunications tower twenty feet, for an overall height of 210 feet, plus radio equipment cabinets located at 10039 Old Stage Road; and

WHEREAS, the proposed extension is shown on the plan prepared by GEM Engineering Company titled "VoiceStream Wireless - ATC/Norge," dated January 15, 2002; and

WHEREAS, the property is located on land zoned A-1, General Agricultural District, and can be further identified as Parcel No. (1-10) on James City County Real Estate Tax Map No. (4-1); and

WHEREAS, the Planning Commission, following its public hearing on March 4, 2002, voted 7-0 to approve this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-1-02 as described herein with the following conditions:

1. All towers shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to final site plan approval.
2. The tower shall meet or exceed the structural requirements as set out in the most current version of "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," published by the Electronic Industries Association. A report certifying that these structural requirements will be met shall be submitted prior to preliminary site plan approval.
3. A statement from a registered engineer that NIER (nonionizing electromagnetic radiation) emitted from any equipment on or services the facility does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute shall be submitted prior to preliminary site plan approval.
4. Following construction of the facility, certification by the manufacturer or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, and demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA

Basic Building Code and Section 222(D) of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.

5. The applicant shall allow other users to locate on the tower and site, and shall provide the County, upon request, verifiable evidence of having made good-faith efforts to allow such locations. To this end, the applicant agrees to execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site.
6. Maximum height of all towers shall not exceed 210 feet, plus radio antenna equipment.
7. The tower shall have a finish that is grey in color. Lighting, beacons, and other similar devices shall be prohibited unless required by the FCC or FAA. When required by the FCC or FAA, a red beacon light or lights of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA and/or FCC findings shall be made available to the County.
8. No advertising material or signs shall be placed on the tower.
9. Prior to installation of equipment other than that of the applicant's, an intermodulation study prepared by a licensed engineer shall be submitted to, and approved by, the Planning Director or his designee, indicating that no interference with County-operated emergency communications equipment will take place.
10. If the use of the tower, or portions of the tower above the level of the uppermost equipment ceases, and the tower or said portion remains unused as a wireless communications facility or unused as a facility that supports public safety antenna for a period of six months, the tower or unused portion and associated and unused accessories shall be removed from the property by its owners. The applicant shall post a surety, performance bond, or cash equivalent in an amount sufficient to guarantee removal of any unused facility or part thereof prior to final site plan approval.
11. Prior to final site plan approval and prior to leasing space on the tower to additional users, the applicant shall offer a lease option and negotiate in good faith with the County to install public communications equipment on the tower. Evidence of good faith negotiations shall include, but not be limited to, documented and executed lease agreements for similar agreements for public use on a privately owned tower. The County shall, within a reasonable time period, make a final determination regarding its desire to locate on the tower and shall notify the applicant of its intentions.
12. A permanent Certificate of Occupancy shall be obtained within one year of approval of this special use permit, or the permit shall become void.

13. The tower shall be freestanding and shall not use guylines for support.
14. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material and/or color to that generally used on a single-family residence and shall be approved by the Director of Planning. A gable or shed roof shall be used on all equipment sheds and huts as determined by the Director of Planning prior to final site plan approval.
15. There shall be a future lease area to accommodate one additional tower and supporting equipment as generally depicted on the site plan prepared by the Timmons Group titled "360° Communications - Norge Site," dated March 24, 1997, and site plan prepared by GEM Engineering Company titled "VoiceStream Wireless - ATC/Norge," dated January 15, 2002. Such lease area shall remain free of all strictures until such time a second tower is constructed and the additional tower shall be subject to an administrative approval only. Said tower shall meet all requirements of this special use permit.
16. The fencing used to enclose the lease area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
17. Existing trees in the ravines of the parcel and along the parcel's Interstate 64 frontage shall be retained for screening purposes and shall not be timbered while a tower or towers remain on the property. These areas are identified as Areas 1 and 3 on the map entitled "HDWD MGMT AREA," prepared by Chesapeake Forest Products, dated February 1970.
18. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2002.

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